

Message Text

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ACTION EB-08

INFO OCT-01 IO-13 ISO-00 COME-00 LOC-01 L-03 AF-10

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TO SECSTATE WASHDC 6799

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E.O. 11652: N/A

TAGS: WIPO, EINV

SUBJECT: WIPO DIPLOMATIC CONFERENCE FOR THE CONCLUSION
OF TREATY ON INTERNATIONAL RECORDING OF
SCIENTIFIC DISCOVERIES, GENEVA, FEBRUARY 27-
MARCH 7

1. CONFERENCE OPENED ON FEBRUARY 27 WITHOUT INCIDENT AS FAR AS ANY POLITICAL PROBLEMS AND NO SUCH PROBLEMS HAVE ARISEN TO DATE. AFTER CONSULTATION AMONG KEY DELEGATIONS, O. LEBERL, PRESIDENT OF THE AUSTRIAN PATENT OFFICE, WAS ELECTED PRESIDENT OF THE CONFERENCE. USDEL SELECTED TO SERVE ON DRAFTING COMMITTEE. USDEL WAS ALSO ELECTED AS GROUP B SPOKESMAN AND CHAIRED GROUP B MEETINGS WHICH WERE HELD EVERY DAY FROM FEBRUARY 27 THROUGH MARCH 3, USUALLY MORNING AND AFTERNOON.

2. CONFERENCE CONCLUDED ITS CONSIDERATION OF PROPOSED DRAFT TREATY LATE ON MARCH 3. APPROVAL OF FINAL TEXT OF TREATY AND CLOSING STATEMENTS WILL TAKE PLACE IN PLENARY ON TUESDAY MORNING (MARCH 7). SIGNATURE OF TREATY AND FINAL ACT SCHEDULED FOR TUESDAY AFTERNOON. USDEL PLANS TO MAKE CLOSING STATEMENT SUMMARIZING OUR VIEWS AND UNDERSTANDINGS ON KEY POINTS OF TREATY FOR CONFERENCE MINUTES.

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3. USDEL HAS BEEN SUCCESSFUL IN MAINTAINING ALL OF BASIC PRINCIPLES IN PROPOSED DRAFT IN WHICH U.S. INTERESTED. ADDITIONALLY, USDEL PROPOSAL ACCEPTED WHICH REQUIRES CONVENING OF A CONFERENCE OF REVISION TO AMEND BASIC PRINCIPLES OF TREATY RATHER THAN BY ASSEMBLY. USDEL PROPOSAL TO TIGHTEN UP ARTICLE 13 ON "FINANCES" WAS

ALSO APPROVED.

4. GROUP B HELD TOGETHER ON ALL MAJOR ISSUES AND PROVIDED UNANIMOUS SUPPORT FOR POSITIONS ADVOCATED BY USDEL THAT TREATY SHOULD NOT ESTABLISH LEGAL RIGHTS IN SCIENTIFIC DISCOVERIES AND THAT INTERNATIONAL RECORDING OF A SCIENTIFIC DISCOVERY SHOULD NOT IMPLY A CERTIFICATION OF MERITS OF THE SCIENTIFIC DISCOVERY. (SWISS AND FRENCH DELEGATIONS WITH REPRESENTATION FROM THEIR CAPITALS WERE OF GREAT HELP IN MAINTAINING BASIC PRINCIPLES OF DRAFT TREATY.)

5. FOLLOWING IS A SUMMARY OF MAIN REVISIONS IN DRAFT TREATY:

ARTICLE 1: DEFINITION OF "APPLICANT" WAS MODIFIED TO INDICATE THAT LEGAL ENTITIES MAY FILE APPLICATIONS. CONTRACTING STATES, IF THEY SO DESIRE, ARE PERMITTED TO EXEMPT CERTAIN SCIENTIFIC DISCOVERIES FROM BEING CONSIDERED FOR INTERNATIONAL RECORDING UNDER THE TREATY. THE DATE OF DISCOVERY WAS DEFINED TO BE THE FIRST TIME WHEN THE SCIENTIFIC DISCOVERY WAS PUBLISHED OR COMMUNICATED.

ARTICLE 2: IN ACCORD WITH USDEL POSITION THIS ARTICLE WAS COMPLETELY REWRITTEN TO STATE THAT INTERNATIONAL LIMITED OFFICIAL USE

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RECORDING PROVIDES FOR WIDEST POSSIBLE ACCESS TO RECORDED SCIENTIFIC DISCOVERIES AND THAT RECORDING DOES NOT AFFECT THE FREE USE OF THE IDEAS CONTAINED IN RECORDED SCIENTIFIC DISCOVERIES. REVISED ARTICLE 2 MAINTAINED PRINCIPLE THAT TREATY DOES NOT AFFECT FREEDOM OF CONTRACTING STATES TO GRANT OR NOT TO GRANT RIGHTS UNDER NATIONAL LEGISLATION TO DISCOVERERS OF RECORDED SCIENTIFIC DISCOVERIES.

ARTICLE 3: THE APPLICATION MUST CONTAIN A STATEMENT BY AN APPROVED SCIENTIFIC INSTITUTION THAT THE SCIENTIFIC DISCOVERY, WHICH IS THE SUBJECT MATTER OF THE APPLICATION, IS WITHIN THE DEFINITION OF A SCIENTIFIC DISCOVERY AS SET FORTH IN TREATY. AN APPLICATION FILED MORE THAN TEN YEARS AFTER THE DATE OF THE DISCOVERY CANNOT BE RECORDED.

ARTICLE 4: REFERENCE TO NON-INVOLVEMENT OF THE APPOINTED SCIENTIFIC INSTITUTION AS TO THE MERITS OF THE SCIENTIFIC DISCOVERY WAS DELETED IN FAVOR OF STATEMENTS TO THAT EFFECT BY DELEGATIONS IN THE OFFICIAL MINUTES OF THE CONFERENCE.

ARTICLE 5: REFERENCE TO NON-INVOLVEMENT OF THE INTERNATIONAL BUREAU WAS DROPPED AND PLACED IN AN "AGREED STATEMENT" WHICH WAS ADOPTED BY THE CONFERENCE AND INCLUDED IN THE "RECORDS" OF THE CONFERENCE.

ARTICLE 13: USDEL PROPOSAL TO INCLUDE NEW PARAGRAPH IN ARTICLE ON "FINANCES" TO EFFECT THAT CONTRACTING STATES SHALL PAY CONTRIBUTIONS TO COVER ANY DEFICITS THAT MAY OCCUR AT CLOSE OF FINANCIAL YEAR WAS ADOPTED.

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ARTICLE WAS REVISED TO REQUIRE THAT SPECIFIED MAJOR SUBSTANTIVE PROVISIONS OF TREATY MAY ONLY BE AMENDED BY A DIPLOMATIC CONFERENCE OF REVISION OF ALL CONTRACTING STATES.

ARTICLE 17: THIS ARTICLE WAS REVISED TO REQUIRE RATIFICATION OR ACCESSION BY TEN STATES BEFORE TREATY ENTERS INTO FORCE. (DRAFT TREATY REQUIRED RATIFICATION ON ACCESSION BY ONLY THREE STATES.)

6. THIRTY-FOUR MEMBER STATES OF WORLD INTELLECTUAL PROPERTY ORGANIZATION, OF WHICH TWENTY-FOUR HAD APPROPRIATE CREDENTIALS, PARTICIPATED IN CONFERENCE; NINE OF THE LATTER GROUP WERE GROUP B COUNTRIES. (TWO MORE, GREECE AND ITALY, INFORMED SECRETARIAT THAT THEIR CREDENTIALS WOULD ARRIVE BEFORE CLOSE OF CONFERENCE.) IN ADDITION, SEVEN NON-MEMBERS OF WIPO ATTENDED CONFERENCE AS OBSERVERS.

7. LIST OF STATES THAT SIGN TREATY AND ANY OTHER

SIGNIFICANT INFORMATION WILL BE CABLED AT CLOSE OF
CONFERENCE. SORENSON

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Message Attributes

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